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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/940,296	08/27/2001	Sithian Pandian	MBM1270	7256
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Lisa A. Haile,	J.D., Ph.D.	EXAMINER		
GRAY CARY Suite 1100	WARE & FREIDENRI	WHISENANT, ETHAN C		
4365 Executive Drive			ART UNIT	PAPER NUMBER
San Diego, CA 92121-2133			1634	
			DATE MAILED: 08/09/2002	

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No.							
### Office Action Summary Examiner Exam		Application No.	Applicant(s)				
Ethan Whisenant, Ph.D. 1634 - The MAILING DATE of this communication appears on the cover sheet with the correspondence address - Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Entermises at three may be available under the provisions of 37 CFR 1.13(a). In an event, however, may a regly be timely filled and set St. (6) MONTHs from the provisions of 37 CFR 1.13(a). In an event, however, may a regly be timely filled and set St. (6) MONTHs from the provisions of 37 CFR 1.13(a). In a event, however, may a regly be timely filled and set St. (6) MONTHS from the provisions of 37 CFR 1.13(a). In a event, however, may a regly be timely filled and set St. (6) MONTHS from the mailed gible of this communication. - If the period for may be unabled and the fill of the provisions of 37 CFR 1.13(a). In a event, however, may a regly be timely filled and set St. (6) MONTHS from the mailed gible of this communication. - Failuse for became adhabition. Gible 1.13(a) and the set of the intermediate of the set of the communication. even if timely filled, may reduce any set of 37 CFR 1.13(a). - Any reply received by the United steer than the months after the mailing dies of this communication. even if timely filled, may reduce any set of 37 CFR 1.13(a). - Any reply received by the United steer than the months after the mailing dies of this communication. - Status	•	09/940,296	PANDIAN ET AL.				
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ELECTION/RESTRICTION

1. Claim(s) 1-29 is/are pending in the application.

ELECTION/RESTRICTION

- 2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claim(s) 1-4 and 25-29 drawn to an amplification probe, reagent and kit comprising said amplification probe, classified in Class 536, subclasses 23.1 and 24.3.
 - II. Claim(s) 5-24 drawn to a method for detecting a target nucleic acid sequence, classified in Class 435, subclass 6.
- 3. The inventions are distinct, each from the other for the following reasons.

Inventions I and II are related as a product and a process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the product as claimed can be used as a molecular weight marker in gel electrophoresis. Or in the alternative the amplification probe as claimed can be used to capture/purify/isolate the selected target nucleic acid.

- **4.** Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and the necessity for a non-coextensive literature search, restriction for examination purposes as indicated is proper.
- **5.** Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ethan Whisenant, Ph.D. whose telephone number is (703) 308-6567. The examiner can normally be reached Monday-Friday from 8:30AM -5:30PM EST or any time via voice mail. If repeated attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, W. Gary Jones, can be reached at (703) 308-1152.

The fax number for this Examiner is (703) 746-8465. Before faxing any papers please inform the examiner to avoid lost papers. Please note that the faxing of papers must conform with the Notice to Comply published in the Official Gazette, 1096 OG 30 (November 15, 1989). Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-0196.

ETHAN C. WHISENANT PRIMARY EXAMINER